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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11	ANDREW SHALABY & SONIA DUNN-)	Case No. 07cv2107-W(BLM)
12	RUIZ,)	
)	
	Plaintiffs,)	ORDER GRANTING <i>EX PARTE</i>
13)	REQUESTS TO BE EXCUSED FROM
	v.)	PERSONAL APPEARANCE
14)	REQUIREMENT
	NEWELL RUBBERMAID, INC., et)	
15	al.,)	
)	
16	Defendants.)	
	_____)	
17)	
	And related counterclaim.)	
18	_____)	

19 Before the Court are two *ex parte* requests to excuse parties
20 or their insurers from the requirement that they personally appear
21 at the Mandatory Settlement Conference ("MSC") set for October 14,
22 2008. The first request, a letter from Defendant Western Industries
23 dated July 25, 2008, asks that a representative for Western
24 Industries not be required to appear, because all authority to
25 settle the case lies with the company's insurer, and the insurer
26 will have a representative with full settlement authority present at
27 the MSC. Ex. 1 (Western Industries' letter and supporting docu-
28

ments).¹

The second request, a letter from Defendants Newell Rubbermaid, Rubbermaid, Inc., The Home Depot, Bernzomatic, and Irwin Industrial Tool Company ("Newell Defendants") dated August 8, 2008, asks that AIG, the excess liability insurer for the Newell Defendants, be excused from having a personal representative present at the MSC. Ex. 2. In support, the Newell Defendants argue that it is unlikely that their liability exceeds \$3,000,000, the point after which the excess liability insurer may be required to contribute to the settlement. Id.

The parties' *ex parte* requests are **GRANTED** as follows. First, in accord with Judge Porter's previous order, Western Industries is not required to have a personal representative present on behalf of the company at the MSC. Western Industries is, however, required to have an insurance representative present with full settlement authority. Second, the Newell Defendants' excess liability insurer, AIG, is not required to have a representative present at the MSC. However, AIG shall have a representative with full settlement authority available by phone during the conference.

IT IS SO ORDERED.

DATED: August 13, 2008



BARBARA L. MAJOR
United States Magistrate Judge

¹Before being transferred to this Court, this case was before Magistrate Judge Louisa S. Porter. At that time, Western Industries requested to be excused from personally appearing at an MSC scheduled before that Court (Ex. 1, containing copy of request), and Judge Porter granted that request (Doc. No. 21, order).

1 COPY TO:

2 HONORABLE THOMAS J. WHELAN
3 UNITED STATES DISTRICT JUDGE

4 ALL COUNSEL AND PARTIES
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